

# EXHIBIT M

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
3

4 CRUMP INSURANCE SERVICES, INC.,

5 Plaintiff,

6 vs.

No. C-07-4636 MMC

7 MICHAEL P. MCGRATH, an individual,  
8 ALL RISKS, LTD., a corporation,  
9 and Does 1 through 50, inclusive,  
10 Defendants.  
11  
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13  
14 VIDEOTAPED DEPOSITION OF CYNTHIA MARTY  
15 San Francisco, California  
16 Wednesday, April 30, 2008  
17  
18  
19  
20

21 Reported by:

SUZANNE F. BOSCHETTI

22 CSR No. 5111

23 Job No. 85930B  
24  
25

1 was one.

2 [Q. Okay. Can you give me your employment history?  
3 I don't know want to know part-time jobs or high school  
4 jobs, but sort of your professional career.

5 A. I start in the business about 23 years ago as  
6 an insurance broker at a small reinsurer by the name of  
7 Buffalo Re.

8 Q. Give it to me again, the name.

9 A. Buffalo Re.

10 Q. Buffalo Reinsurance?

11 A. Reinsurance, yes.

12 I was there for about a year and a half, then  
13 went to work for -- at that time they were known as  
14 Alexander & Alexander as part of their reinsurance end  
15 and was -- then after two years moved to their retail  
16 side. All in I was at Alexander and Alexander for ten  
17 years.

18 Then I went to Marsh here in San Francisco for  
19 another ten years. And then left, it will be two years  
20 this June, to go to Crump. Was there for one year. And  
21 then came to All Risks.

22 [Q. When did you begin with Crump?

23 A. Beginning of June 2007. No. That'd be 2006.

24 Q. And when did you leave Crump?

25 A. June 2007. No, July -- I stayed the month.

1 July 2007.

2 Q. Do you happen to know the day? And I will tell  
3 you, sitting in front of you is a calendar. You'll note  
4 I highlighted 2007. So would looking that the calendar  
5 for 2007 refresh your recollection as to your last day  
6 at Crump?

7 A. June 29th, 2007.

8 [Q. And when did you tell Crump that you wanted to  
9 leave?

10 A. It would be June 4th, 2007.]

11 Q. What day of the week was that?

12 A. Monday.

13 Q. Who did you tell?

14 A. Peter Scott.

15 Q. And where were you and he when you told him?

16 Was it face-to-face?

17 A. Yes.

18 Q. Face-to-face and where were you?

19 A. Peter's office.

20 Q. And why is it you are able to remember it was  
21 Monday, June 4th?

22 A. I wouldn't -- our cycles work in months -- our  
23 renewal books are in month phases, and the first of the  
24 month I always know what's going on.]

25 Q. So you're absolutely certain it was Monday,

1 Q. And Peter was in his office?

2 A. Yes.

3 Q. Was there anyone else present?

4 A. Not in his office, no.

5 Q. Was Michael McGrath still at Crump?

6 A. He wasn't in the office.

7 Q. Okay. So pretty much once you got there first  
8 thing in the morning, you went in to talk to Peter and  
9 told him you were going to leave?

10 A. Yes.

11 Q. Did you tell him when you were going to be  
12 leaving?

13 A. I said I was giving two weeks' notice, but I  
14 would work with him with it -- on it.

15 [Q. What, if anything, did Peter tell you?

16 A. That he wanted me to go think about it before  
17 making the decision, and he didn't want to accept it.  
18 That he wanted me to take the day off and think about it  
19 and talk the next day.

20 Q. As of that point in time, did he say anything  
21 about Mike McGrath and whether Mike McGrath had given  
22 notice?

23 A. Not that I recall.

24 Q. And when he told you that he wanted you to take  
25 the day off and think about it, did you respond?

1           A. I said that I would. I owed him that much ]  
2 for -- I have a lot of respect for Peter.

3           Q. So did you leave then --

4           A. Mm-hmm.

5           Q. -- for the balance of the day?

6           A. Mm-hmm.

7           Q. And where did you go?

8           A. I went home.

9           Q. And did you contact anyone or discuss it with  
10 anyone, the balance of the day?

11          A. No.

12          Q. Okay. So basically Monday you went to work,  
13 told Peter you'd gotten this offer, you were going to  
14 resign. He told you to think about it, take the day  
15 off. You went home.

16          A. Mm-hmm.

17          Q. And what did you do?

18          A. I just sat in my backyard and thought about it.  
19 Then I received a call from one of my coworkers at  
20 Crump, saying that she had heard that I resigned, and  
21 she wanted to talk about it to see what it --

22          Q. Who was that?

23          A. Oh, Sheryl Smith.

24                 And she said, why don't you just come back over  
25 and let's talk -- to the city.

1 [ Q. So you think it was set directly with Nick?

2 A. I don't know. I guess.

3 Q. Okay.

4 A. Yeah, I don't know.

5 Q. So you went to this dinner at Cosmo. You knew  
6 that Mike McGrath was going to attend 'cause you had  
7 learned that.

8 A. Mm-hmm.

9 Q. And you have dinner with yourself, Nick and  
10 Mike, correct?

11 A. Correct.

12 Q. And those with the only people in that group?

13 A. Yes.

14 Q. What was discussed at the dinner?

15 [ A. Pretty much it was Nick describing his company,  
16 what he'd done, his vision for the future what he wanted  
17 to see happen in San Francisco for his company.

18 Q. And can you describe some of what he said along  
19 those lines?

20 A. He wanted to set up a brokerage business, a  
21 property brokerage business.

22 Q. Did he already have a company in the Bay Area?

23 A. Not that did property brokerage, but yes, he  
24 owned another company that had just moved to the city or  
25 he had bought one. I'm not sure if he had it before,]

1 called Peter on Sunday, June 3rd, and told him he was  
2 resigning?

3 A. Yes. Peter -- yes. Peter told me.

4 Q. But Mike did not tell you?

5 A. No. I think Pete told me in the morning that  
6 he had talked to Mike the day before.

7 Q. Okay. Let me switch gears a little bit.

8 [Did you ever ask Cora De La Cruz in late May of  
9 2007 to do some kind of computer printout for you?

10 A. Yes.

11 Q. What did you ask her for?

12 A. I asked her for the expiration log.

13 Q. Expiration log?

14 A. That's what I -- yeah, that's what I call it.

15 Q. Tell me what information that contains.

16 A. It's just our list of accounts and the dates  
17 they come up.

18 Q. List of accounts shows what information?

19 A. It showed the name of the account, our broker,  
20 our retail broker.

21 Q. The name of the account, is that designated as  
22 just the retail broker or the --

23 A. It's the actual customer.

24 Q. So the insured?

25 A. Yes. Yes.



1 Q. Okay.

2 A. And it has the retail broker, the effective  
3 dates, and the -- the premiums and the commissions.]

4 Q. The effective date of the policy?

5 A. Yes.

6 Q. So does it show the type of insurance it's  
7 providing?

8 A. Oh, it would have been all property. That's  
9 all we do.

10 Q. Okay. When did you ask for that?

11 A. The last -- the last week of May, I think.  
12 Mike was gone because I was trying to make a decision if  
13 I wanted to go or not, to make a change.

14 Q. And why would you ask for this expiration log  
15 to make that decision?

16 A. To see what was up there that -- what I -- what  
17 I was responsible for in -- at Crump.

18 Q. What do you mean, "responsible"?

19 A. What accounts, you know, that I'd worked on. I  
20 don't a great memory when it comes to what accounts I've  
21 worked with and everything. It's -- as they come in,  
22 I'm sort of a churn and burn person, that I work on  
23 them, they go, and they move on and on and on.

24 Q. Why did you want to know which accounts you had  
25 worked on while deciding whether to move to All Risks?

1 ones that I've had on my desk. I'd receive my monthly  
2 one -- each month I'd receive what was coming up in the  
3 next current month as my -- my list of what I needed to  
4 follow up on, so I just stuck it in with the rest of  
5 them.

6 [ Q. Did this expiration log include accounts  
7 that -- that Mike was responsible for?

8 A. Did she give me the whole one or not?

9 I think it did. I think it included  
10 everything. But I don't know. I can't recall. I was ]  
11 focusing on what I had basically with -- with Marsh.

12 Q. When you talked with Cora and asked for the  
13 printout, what did you ask for?

14 A. The expir- -- an annual expiration log.

15 Q. And when you got a monthly log, was that the  
16 same information that is an annual log?

17 A. Yes. It's just -- except for it's not -- it  
18 has just -- the monthly log is just the month specific,  
19 but the annual log just had each month all in one volume  
20 versus getting, you know, 12 separate or however number  
21 of pages.

22 Q. So, for instance, the one you got showed the  
23 annual numbers as opposed to monthly numbers?

24 A. No. No, no. What it showed was the accounts,  
25 all the accounts that came up within the year --

1 [Q. So you continued throughout the month of June,  
2 worked at Crump --

3 A. Yes.

4 Q. -- doing what you'd been doing?

5 A. Yes.]

6 Q. During the time that -- now, Mike had left,  
7 right?

8 A. Yes.

9 Q. Do you know anything about the circumstances  
10 under which he left?

11 A. No.

12 Q. Did he tell you why he -- when did he leave?

13 A. He wasn't there when I got there. He was  
14 already gone, according to Peter, that --

15 Q. June 4th?

16 A. Yeah.

17 Q. Did Mike ever tell you what happened such that  
18 he was out of there June 4th?

19 A. I knew he was gone that day, yeah, but Mike --  
20 no, I didn't talk to him that day. Well, that's not  
21 true. I did talk to him that day telling him that I was  
22 going to go home and think about stuff, that I owed  
23 Peter that.

24 [Q. Okay. Up till today, has Mike ever told you  
25 the circumstances under when he left on June 4th?

1 A. No. Uh-uh. I don't know.

2 Q. So while he was working at All Risks from  
3 June 4th on -- correct?

4 A. Yes.

5 Q. -- and at least for the month of June, you were  
6 still at Crump, correct?

7 A. Yes, I was.

8 Q. Did you have any communications with him during  
9 that month?

10 A. He would call occasionally to make sure I was  
11 doing okay.]

12 Q. And did he ask you anything about any specific  
13 business?

14 A. Not at all.

15 Q. Did he ask you to provide him any information  
16 about any of the accounts, customers, anything like  
17 that?

18 A. Absolutely not.

19 Q. And then at the end of the month of June 2007,  
20 you left Crump.

21 [And did you go immediately to All Risks or take  
22 time off?]

23 A. The following Monday I started.]

24 Q. So just moved from one job right to the next --

25 A. Yes.